

Honorable Abraham Ribicoff, Chairman  
Committee on Government Operations  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

I am writing to express concern regarding an aspect of H.R. 13828, a bill now pending before your Committee. This proposed legislation is designed to strengthen the authority of the Administration of General Services with respect to records management by Federal agencies.

The Congress has imposed on the Director of Central Intelligence the responsibility for protecting intelligence sources and methods. There appears to be an omission in H.R. 13828 which could undermine this responsibility.

Under existing law in 44 U.S.C. 2906, the Administrator of General Services may "inspect" the records of Federal agencies and "make surveys of records management" in Federal agencies. However, certain national security-related records may be "inspected" or "surveyed" only with the approval of the head of the custodial agency.

H.R. 13828 authorizes the Administrator to conduct "inspections" and "record management studies." The proposed new section 2906 of title 44 contains the proviso that "inspections" of certain national security-related records be approved by the appropriate agency head. However, the bill is silent with respect to agency head approval for "records management studies." A "records management study" is defined in H.R. 13828 as an "investigation and analysis of any Federal agency records, or records management practice or programs."

It is not clear whether such an investigation could include the inspection of particular records. If it could, then the national security proviso with respect to "inspections" would be negated because the Administrator could inspect particular records without the approval of the agency head in the context of a "records management study," thereby accomplishing indirectly what he is specifically precluded from accomplishing directly.



While such a construction is unlikely, it is not inconceivable. Thus, H.R. 13828 applies a national security proviso to "inspections" but does not apply one to "records management studies," which at least arguably could include "inspections."

We believe it is desirable to avoid this confusion, and we recommend to the Committee insertion of the words "or subjected to records management studies" following the word "inspected" in proposed section 2906 of H.R. 13828.

The Office of Management and Budget has advised there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

George L. Cary  
Legislative Counsel